IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.382 of 1993

Decided on : December 18, 2007

State of H.P. **…Appellant.**

Versus

Lobhi Ram and another **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Som Dutt Vasudeva, Additional Advocate General, with Mr. D.S. Nainta, Deputy Advocate General.

For the Respondents : Ms Vidushi Sharma, Advocate, vice Mr. R.K. Sharma, Advocate.

Surjit Singh, Judge(Oral)

Respondents were sent up for trial for offence of murder, punishable under Section 302 read with Section 34 IPC. Trial Court, after recording the evidence, has acquitted the respondents. State has appealed against the judgment of acquittal.

2. Prosecution story may be summed up thus. Deceased Kishnu had gone to purchase *Fali*, a part of plough, to village Mangli, on 8th July, 1992. He did not return home alive. His dead body was brought by PW-7 Doom, Doom's brother PW-8 Baldev and some other persons of village Mangli. The family members were told that Kishnu had complained of stomachache and vomiting and thereafter he died. Family members did not suspect any foul play and the dead body was cremated. Father of deceased Kishnu was not at home on that day. He returned home after a day or two. He went to village

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Whether reporters of the local papers may be allowed to see the judgment?

Mangli to enquire as to how his son, who was hail and hearty, had died, all of a sudden. He was told by PW-7 Doom that on 25th of Ashad deceased had visited his place and borrowed some money from him by pledging his silver bangles and while he was still at his shop respondent Man Singh, who is son of respondent Lodhi Ram, came there and quarreled with him (PW-7 Doom). Thereafter, Lobhi Ram also came there. Man Singh was taken away by Lobhi Ram to his place. Kishnu also accompanied the two respondents. Late in the evening, Kishnu went to the house of PW-7 Doom and told him that he suspected that some poisonous substance had been administered to him by the two respondents by adding the same to the dish of *Kasror* (a vegetable). Father of Kishnu PW-1 Hardev then lodged a report with the police. Police visited the spot. The matter vomited by deceased Kishnu was seized. The two respondents were arrested. They made a statement leading to the recovery of a paper packet containing some tablets and pills, which were allegedly poisonous. The vomited matter and the envelope containing the pills and tablets were sent to the Chemical Examiner, who, vide report Ex. PM, opined that neither the vomited matter nor the contents of the paper packet contained any poisonous substance.

3. Trial Court charged the two respondents with the offence, punishable under Section 302 read with Section 34 IPC. The two respondents were tried, when they did not plead guilty. At the end of the trial, both the respondents were acquitted.

4. It is submitted by the learned Additional Advocate General that the deceased made a dying declaration to PW-7 Doom and PW-8 Baldev, a brother of PW-7 Doom, that he suspected that poison had been administered to him by the respondents in the dish

of *Kasror* served by them to him with the meals. The submission is without merit, when the report Ex. PM of the Chemical Examiner is to the effect that neither any poisonous substance was traced in the vomited matter nor did the contents of paper packet contain any such substance.

5. For the foregoing reasons, appeal is dismissed.

(Surjit Singh), J

December 18, 2007(sd) **(Surinder Singh), J**